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ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Commissioner

Direct Line: (602) 542-4143
Fax: (602) 542-0765
E-mail: kmayes@azcc.gov

January 2, 2007

Chairman Jeff Hatch-Miller
Commissioner William A. Mundell
Commissioner Mike Gleason
Commissioner Gary Pierce

Re: Opening a generic rulemaking docket and hosting a workshop on Best Management Practices for conservation at Arizona's private water companies.

Dear Colleagues:

I write to concur with Chairman Hatch-Miller's January 2, 2007 letter recommending that we open a generic rulemaking docket to amend A.C.C. R-14-2-402, which addresses Water Utility CC&Ns. However, I believe that such a docket should be accompanied by workshops designed to analyze and approve Best Management Practices ("BMPs") for water conservation at Arizona's private water companies. As Arizona enters another year of drought and faces unprecedented growth, few other endeavors could be more important.

As you know, currently the Arizona Department of Water Resources is engaged in its Proposed Draft Best Management Plan: (Modified Non-Per Capita Conservation Program), a rulemaking aimed at updating DWR's Third Management Plan.¹ It is envisioned that the newly amended rules governing safe yield will require water systems, including the private water companies regulated by the Commission, to implement water conservation measures, called BMPs, geared toward achieving the state's safe yield target.² Larger water companies will likely be asked to fulfill more BMPs than smaller companies, but all companies will be permitted to choose from a list of approximately 25 BMPs.³ Among the list of BMPs currently under discussion are the installation or promotion of low-flush toilets or low pressure shower heads and conservation advertising. I would hope that the Commission would also examine the possibility of including as a BMP the provision of effluent for outdoor residential irrigation uses by water and wastewater companies.

¹ The Third Management Plan is designed to implement the safe yield requirement established pursuant to the 1980 Groundwater Management Act.

² See Draft Program Framework: Modified Non-Per Capita Conservation Program, Department of Water Resources, October 5, 2006.

³ Id. Under the Draft Program, water companies with up to 5,000 service connections would be required to implement a basic water conservation education program plus one other BMP; companies with between 5,001 and 30,000 service connections would be required to implement the education program plus five BMPs; and companies with more than 30,000 service connections would be required to implement the education program plus ten BMPs.

A rulemaking at the Commission designed to analyze and approve a menu of conservation BMPs for water companies will allow the Commission to be prepared to begin adopting these BMPs as soon as the Arizona Department of Water Resources completes its rulemaking process, or perhaps even before.

In the meantime, it is imperative that the Commission continue to mandate water conservation measures, including requiring effluent rather than groundwater on golf courses and other ornamental water features, in new water company CC&N applications, CC&N extension applications and rate cases.

I also believe it is appropriate for the Commission to begin requiring water conservation measures, including educational efforts, low flow water faucets, low flush toilets, and other BMPs, in cases where the facts and circumstances warrant it. And we should be receptive to examining proposed conservation tariffs filed voluntarily by water companies seeking to implement conservation measures before the DWR and the Commission rulemakings are complete.

I look forward to working with the Commission to begin this important rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "Kris Mayes", with a stylized, cursive script.

Kris Mayes
Commissioner

Cc: Brian McNeil
Ernest Johnson
Chris Kempley
Heather Murphy
Herb Guenther
Karen Smith